

Claims 6 - 13 have been rejected for various reasons under §§ 103 and 112. These claims have been cancelled. Applicant respectfully submits that the new claims presented here define patentable subject matter. Applicant appreciates the implicit finding that the invention claimed herein is new and novel in accordance with the U.S. Patent Laws.

§ 112 Rejections

Claims 6 - 13 were rejected for various reasons under § 112.

Claim 6 was rejected for: omitting steps for guaranteeing a price and for two antecedent basis errors. New claim 24 submitted here, corresponding to now-cancelled claim 6, recites steps for guaranteeing a price and antecedent basis is provided for "transaction" and for "item or service."

Claims 6 - 13 were rejected on the basis that it was not explained in the Specification how the bill payment system leads to guaranteeing a price. Applicant respectfully submits that new claims 24 (corresponding to now-cancelled claim 6) and new claim 33 (corresponding to now-cancelled claim 12) have support in the Specification, e.g. at Pages 35 - 40; Pages 42 - 45. Applicant respectfully submits that the Specification is sufficient to teach the invention to a person of ordinary skill in the art; and in the discussion of prior art; and Applicant notes that such a person has available the teachings of U.S. Patent U.S. 6,070,150 (incorporated fully into the Specification - see Page 32).

§ 103 Rejection

Claims 6 - 8, 10 and 12 have been rejected under § 103 based on Hogan (U.S. 5,699,528) in view of Bloomberg et al (U.S. 5,642,279; "Bloomberg"). These claims have been cancelled. New independent claims 24 (corresponding to now-cancelled claim 6) and new independent claim 33 (corresponding to now-cancelled claim 12) and claims depending from these new independent claims recite steps for guaranteeing a consumer a best price based on events occurring after a final sale has been

consummated and recite this limitation:

refunding to an account of the consumer a refund amount.

Bloomberg has no teaching or suggestion regarding a consumer account or of refunding an amount to a consumer account. Applicant notes the Office Action states that "the combination of Hogan and Bloomberg do not specifically teach crediting an account of the consumer" at Page 5. Hogan has no teaching or suggestion of guaranteeing a best price to a consumer. Hogan is limited to billing amounts in effect at a time a bill is generated and has no teaching or suggestion regarding prices going into effect after a transaction is consummated and no teaching or suggestion for post-sale monitoring of prices.

Applicant respectfully submits that no valid combination of Bloomberg and Hogan results in what is now claimed herein.

Claims 9, 11 and 13 have been rejected under § 103 based on Hogan and Bloomberg in view of Walker et al (U.S. 6,249,772; "Walker"). These claims have been cancelled. New claims 27 (claim 9) and 34 (claim 13) correspond to two of these cancelled claims.

Applicant repeats here the remarks regarding the Hogan and Bloomberg references. The claims under discussion here deal with a refund based on post-sale activity and prices coming into effect after a transaction is completed. What is claimed involves a refund which is a payment in time after a sale has been consummated and which is based on post-sale events. Walker has nothing to do with such "refunds." The "rebate" in Walker is based solely on pre-sale and time-of-sale events and conditions. The refund amount as claimed in the present application has stated explicit temporal implications not addressed in the Office Action. Walker does not deal with "providing the refund" as now claimed herein.

Walker does not remedy the deficiencies of the Bloomberg and Hogan references regarding the provision of a refund by crediting an account. For purposes of a rejection under § 103 Walker must be considered in its entirety. The fact that Walker's rebate is based on pre-sale and time-of-sale activity cannot be ignored. For purposes of rejection under § 103 Bloomberg must be considered in its entirety. The fact that Bloomberg has no teaching or suggestion about any account cannot be ignored.

The only source for the teaching of providing a refund by crediting an account

with an amount based on future post-sale pricing is the present invention.

The Office Action states there is a motivation for combining the teachings of Walker with the cited reference " . . . because such a modification would allow for an immediate refund rather than having to wait for the refund to be mailed." This asserted motivation is not in the cited references and Applicant believes that this would not have been obvious to one of ordinary skill in the pertinent art. It is not obvious in the world of business to part with money any sooner than one must - time is money and businesses can earn and do earn interest on a regular, in some cases daily, basis. It is in the business's best interest to keep as much money as long as possible, i.e., it is in a business's best interest to delay a required payment as long as is legally permitted and possible. There is no motivation in the real world of business to provide a refund quicker than is necessary.

There is no concern in Hogan, Walker or Bloomberg for the speed with which a check or rebate is provided to a consumer. From a business's point of view it is a disadvantage to pay such monies quickly or more quickly than is necessary. This disadvantage shows that the alleged advantage referred to in the Office Action cannot serve as the motivation required to combine the teachings of Walker, Hogan and Bloomberg. Also, even if (for the sake of argument) the teachings of these references were combined, the result lacks the element of providing a refund by crediting an account based on post-sale price(s).

Walker focuses on the typical business scenario in which a "retailer is typically motivated to sell goods in a manner that realizes the highest profit margins for his business" (U.S. 6,249,772; Col. 1; lines 55-57). It would go against Walker's teachings for a retailer to provide a refund as claimed according to the present invention. Walker does not want to upset "either the normal pricing structure or profit margin of the retailer" (U.S. 6,249,772; Col. 4; lines 40-41). Such an "upset" is a teaching away from Walker. It is just such an "upset" which is now claimed herein.

Applicant respectfully submits that it does not follow from the fact that an account can be credited that such crediting will be done to **immediately** provide a refund. It is a further step down the road of assumption and a further step away from obviousness to also assume that crediting an account will result in a consumer receiving money more quickly than if the consumer received a check in the mail and went to cash it. There is no teaching in the cited art and no common knowledge in

the art that would direct one of ordinary skill to make refunds available as quickly as possible. On the contrary, as already discussed above, there are real incentives not to make refunds available immediately.

Applicant believes that the motivation cited in the Office Action - to provide a check more quickly - does not exist and would not be a motivation for a person such as one of the Hogan or Bloomberg reference inventors or for a person of ordinary skill in the art. From the time a check is determined to be proper in Bloomberg's system until the check is processed is a significant time period that includes check preparation; check mailing; check receipt by the consumer; and check cashing by the consumer. Assuming for the sake of argument that speed somehow became a concern [which assumption is denied] vis-a-vis Bloomberg's system, the only obvious changes would be in how to deliver a check more quickly or how to make it more convenient for a consumer to cash a check.

New Claims

Applicant believes each of the new claims discussed below recites subject matter patentable with respect to Hogan, Bloomberg, Walker, any or all prior art cited on this record, and any possible valid combination of any of this prior art.

New claims 28 and 35 recite automatically notifying a consumer of a refund amount. No cited or of record prior art has a teaching or suggestion in a price guaranteeing method or system of so notifying a consumer.

New claim 29 recites alerting a second vendor that the first vendor is offering the item or service at a lower price (i.e. better price). No cited or of record prior art has a teaching or suggestion in a price guaranteeing method or system of so alerting a second vendor.

New claim 30 recites monitoring all sales prices of all providers of the item or service. No cited or of record prior art has a teaching or suggestion in a price guaranteeing method or system of so monitoring all sales prices.

New Claim 36

New claim 36 recites a system which provides a consumer a best price in real time on-site at a vendor's location at the time of a purchase. The vendor has a biller computing unit connected to a network for monitoring other vendors prices in real time and for having the consumer pay the best price then available, even if it is a price offered by a competitor. No cited or of-record art has any teaching or suggestion of such a system that monitors competitors prices in real time and makes a best price available to a consumer on site at a vendor's location.

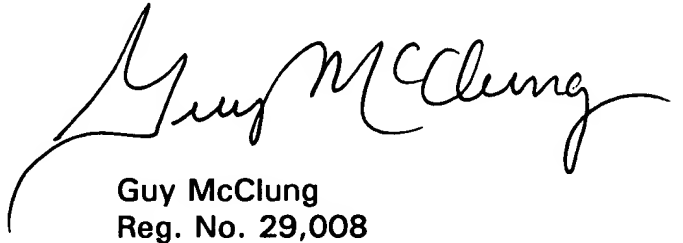
Time Extension

Submitted herewith is a Petition to obtain a two-month time extension to reply to the Office Action.

Conclusion

Applicant appreciates the careful and detailed Office Action. This is intended to be a complete Response to the Office Action. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,


Guy McClung
Reg. No. 29,008

Date: 10 Jan 2004
PMB 347
16690 Champion Forest Drive
Spring, TX. 77379--7023
Phone: 713 893 5244 Fax: 281 893 5258

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that this Notice is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Non Fee Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria VA, 22313-1450 on 10 JAN. 2004
Guy McClung, Reg. No. 29,008